

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
Case No. 7:23-cv-897

IN RE:	)	
	)	
CAMP LEJEUNE WATER LITIGATION	)	<b>JOINT NOTICE OF FILING OF</b>
	)	<b>PROPOSED DISCOVERY PROFILE</b>
This Document Relates To:	)	<b>POOL FORM AND PROPOSED</b>
ALL CASES	)	<b>DISCOVERY PROFILE POOL FORM</b>
	)	<b>ORDERS</b>

Plaintiffs’ Lead Counsel and Co-Lead Counsel (collectively “Plaintiffs’ Leadership”) and counsel for Defendant United States of America (“Defendant,” collectively with Plaintiffs’ Leadership the “Parties”) respectfully submit to this Honorable Court a Proposed Discovery Pool Profile Form (the “DPPF”) (Attachment 1) and competing proposed Stipulated Order Regarding Discovery Pool Profile Forms (the “DPPF Order”) (Attachments 2 and 3) pursuant to Case Management Order No. 2 § XI.A.iv.b. (DE 23).

The Parties have met numerous times to discuss the proposed DPPF and the proposed DPPF Order and have collaboratively reached agreement on many salient issues, including the substantive questions underlying the DPPF. Notwithstanding the Parties’ reaching significant consensus, one key area of divergence remains: whether the DPPF Order should permit the Defendant to move to dismiss, without prejudice, a plaintiff’s case for failure to substantially complete the DPPF.

Plaintiffs’ Leadership asserts that the DPPF should be governed by the Federal Rules of Civil Procedure governing interrogatories and discovery and therefore, the DPPF Order should afford plaintiffs the protections and processes of said rules, which include requiring the Defendant to file a motion to compel compliance with applicable Court orders regarding the DPPF. Plaintiffs’ Leadership contends that such processes would not unduly delay the Parties

in their efforts to advance the litigation, especially in light of the regular status conferences the Court has established. Defendant agrees that the DPPF should be governed by the Federal Rules of Civil Procedure, but contends that Rule 37(b)(2)(A)(v) is applicable, which permits the dismissal of an action for failure to obey an order to provide discovery. The Court has already ordered, at the request of Plaintiffs' Leadership, that each Track 1 Discovery Plaintiff complete the DPPF within 45 days. *See* D.E. 17-1 at 10 (Plaintiffs' Leadership proposal); D.E. 23 at 10 (CMO2). The Defendant contends that a clearer process for addressing failure to comply with CMO 2 will avoid unnecessary delays and facilitate resolution in all cases consistent with CMO 2.

2. The Defendant contends that, as in other mass tort litigation, the process should include a warning letter and fourteen days to comply with said letter, after which the Defendant may seek dismissal of the case without prejudice.

Accordingly, the Parties hereby submit for the Court's consideration the following:

- 1) Discovery Pool Profile Form (Attachment 3).
- 2) Plaintiffs' Leadership's Proposed Stipulated Order Regarding the Discovery Pool Profile Form (Attachment 2).
- 3) Defendant's Proposed Stipulated Order Regarding the Discovery Pool Profile Form (Attachment 3).

WHEREFORE, the Parties respectfully submit this Joint Status Report.

DATED this 6th day of November 2023.

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